

**NEW YORK STATE LEGISLATIVE ETHICS
COMMISSION**

**ANNUAL REPORT
2016**

Co-chairs

**Senator Andrew J. Lanza
Assemblymember Charles D. Lavine**

Members

**Senator Neil D. Breslin
Assemblymember Michael Montesano
John M. Brickman, Esq.
Peter V. Coffey, Esq.
Ellen B. Holtzman, Esq.
Mr. John J. Nigro**

www.legethics.com

Legislative Ethics Commission

Staff

Lisa P. Reid, Executive Director/Counsel
Kate Seibert, Deputy Director/Counsel
Felicia Reid/Senior Counsel
Gary DeSorbo, Assistant Counsel
Nicole Manikas, Training Coordinator and Research Assistant
Vicky T. Doren, Executive Assistant
Michele B. Sainato, Legal Secretary

Location

Alfred E. Smith State Office Building
80 South Swan Street, Suite 1431
Albany, New York 12210

Mailing Address

Box 75
Legislative Office Building
Albany, New York 12247

Phone

(518)432-7837
Senate extension 2142
Assembly extension 5218

Website

www.legethics.com

Legislative Ethics Commission

The Legislative Ethics Commission (LEC) was created by Chapter 14 of the Laws of 2007 as part of the Public Employees Ethics Reform Act of 2007. The Commission was established to succeed the Legislative Ethics Committee, originally established in 1987. Pursuant to the 2007 Act, the successor commission is a nine-member commission consisting of four legislators and five non-legislative members. Each legislative leader appoints one legislator and one non-legislator to serve on the Commission. The Legislative Law provides for the appointment of a fifth non-legislative member to be named jointly by the Temporary President of the Senate and the Speaker of the Assembly. The terms of the legislative leaders run concurrently with their two year legislative terms. After the initial staggered terms of the non-legislative members have been served, subsequent appointments are four year terms. The legislative appointees of the majority conferences serve as the Commission's co-chairs.

For 2016, members of the Commission were:

- Senator Andrew J. Lanza, (24th Senate District, part of Richmond County)
- Assemblymember Charles D. Lavine (13th Assembly District, part of Nassau County)
- Senator Neil D. Breslin (44th Senate District, parts of Albany and Rensselaer Counties)
- Assemblymember Michael Montesano (15th Assembly District, part of Nassau County)
- John M. Brickman, Esq. appointed by the Speaker of the Assembly July 8, 2016
- Carlin Meyer, Esq, appointed by the Speaker of the Assembly September 16, 2013 (served through May 2016)
- Peter V. Coffey, Esq., appointed by the Assembly Minority Leader

- Ellen B. Holtzman, Esq., appointed by the Senate Minority Leader
- Mr. John Nigro, appointed by the Temporary President of the Senate.

The Commission's responsibilities are set forth in Legislative Law Section 80 and include administration and enforcement of Sections 73, 73-a and 74 of the Public Officers Law. The Public Integrity Act of 2011 (Chapter 399 of the Laws of 2011, signed August 15, 2011) amended the duties and responsibilities of the Legislative Ethics Commission effective January 2012.

The Public Integrity Act established the Joint Commission on Public Ethics (JCOPE). Chapter 399 provided that investigations of violations of Public Officers Law §§ 73, 73-a and 74 by legislators and legislative employees are to be conducted by the Joint Commission on Public Ethics. The LEC has jurisdiction to impose penalties for violations of Public Officers Law by legislative members and staff after receiving substantial basis investigation reports from JCOPE.

The Legislative Ethics Commission issues advisory opinions to legislators and legislative employees and receives and reviews financial disclosure statements of legislators, legislative staff and candidates for legislative office for filing with the LEC and JCOPE. In addition, the LEC responds to informal requests for guidance and maintains a public website.

The Commission is also required to develop educational materials and ethics training in conjunction with and at the request of the Legislature.

Legislative Ethics Commission Website

In compliance with Chapter 14 of the Laws of 2007, the Legislative Ethics Commission created and maintains a public website at www.legethics.com. Information on the website includes relevant statutes, bylaws, rules of the Commission, including the procedure for filing a complaint, and public documents. The website also provides forms and instructions, generic advisory opinions, and contact information. The website is updated on an ongoing basis.

Legislative Ethics Commission Meetings

Section 80 of the Legislative Law provides that the Commission shall meet bi-monthly and at such additional times as may be called for by the co-chairpersons jointly or any five members of the Commission. Five members of the Commission constitute a quorum, and the Commission has the power to act by majority vote of the total number of members of the Commission without vacancy (five members). In 2016, the Commission met on the following dates:

Wednesday, February 10, 2016
Monday, February 29, 2016
Wednesday, April 13, 2016
Wednesday, May 4, 2016
Thursday, July 28, 2016
Friday, September 30, 2016
Monday, November 21, 2016

Financial Disclosure

The Legislative Ethics Commission is responsible for administering the financial disclosure requirements of Public Officers Law (POL) §73 and §73-a. Legislative members, legislative employees who earn more than the filing rate set forth in §130(1)(a) of the Civil Service Law (\$91,821 annually during 2016), employees

who are designated by their appointing authorities as policy makers for disclosure purposes, and candidates for the state legislature must file the disclosure statement set forth in POL §73-a. All other legislative employees are required to file the financial disclosure statement described in POL §73(6).

Pursuant to §73-a, completed Annual Statements of Financial Disclosure for legislative members and employees must be filed on or before May 15 of the filing year or thirty days after commencing employment. (Forms were due May 16, 2016 as the fifteenth fell on a Sunday.) Generally, candidates for legislative office are required to file within ten days after the last day allowed by law for the filing of designating petitions. The Commission publishes a guidebook, also available online, to assist those individuals required to file the Annual Statement of Financial Disclosure. Commission staff also answers numerous inquiries regarding the completion of the statement and welcomes such inquiries by phone, e-mail, or in person at the Commission offices.

The statements are reviewed to assure that the responses to questions are complete, internally consistent, and consistent with filings for prior years. The Commission may also seek to confirm information reported on disclosure forms with publicly available sources of information such as attorney registration, professional licensing and corporate information. The Commission asks for additional information or clarification where it appears the filing may be deficient. Legislative members and staff may file amendments to their Annual Statements of Financial Disclosure to add or clarify information. Approximately eighteen percent of legislators filed amendments in 2016. Within forty-five days of receipt, the LEC forwards Annual Statements of Financial Disclosure to JCOPE for filing.

The following chart summarizes the number of disclosure statements filed:

	2014	2015	2016
Legislative Members	201	210	211
Employees-File Rate	193	185	183
Employees-Designated Policy Makers	292	326	300
Candidates for Legislative Office	229	20	262
Total	915	741	956

*Legislative Members who filed as candidates in a special election held prior to May 15th of the filing year are not required to refile on May 15th with the same information.

*Legislators who filed in May in their legislative capacities do not need to refile the same information if they seek reelection.

Public Inspection

Completed Annual Statements of Financial Disclosure filed through calendar year 2010 are available for public inspection at the Commission offices, except for the categories of value, which are redacted pursuant to Public Officers Law §80(14)(a). Those disclosure forms filed in 2012 (for calendar year 2011) are available at the Joint Commission on Public Ethics. A member of the public may obtain a copy of a statement by mail, fax or e-mail.

Annual Statements of Financial Disclosure filed by legislators in 2013 (for calendar year 2012) and going forward are available online at the Joint Commission on Public Ethics website, www.jcope.ny.gov, and are no longer redacted for categories of value.

Legal Activity

Advisory Opinions

Upon the written request of any person who is subject to the jurisdiction of the Commission and the requirements of sections 73, 73-a and 74 of the Public Officers Law, the Commission renders confidential advisory opinions on the application of the laws to particular, specific, facts. Last year, the Commission issued a number of formal opinions on subjects including, outside employment, post employment restrictions, board positions with not for profit organizations, and client disclosure reporting requirements. The Commission also offered informal advice and guidance on a variety of requests from current and former members of the legislature, candidates for legislative office, potential, current and former legislative employees and others who deal with the legislature.

The Commission provided an updated generic opinion on post employment restrictions for legislative employees and an opinion regarding statutory exceptions to post employment restrictions. Both opinions were posted on the LEC website.

Complaints and Investigations

As complaints must be filed with the Joint Commission on Public Ethics, the instructions for filing complaints with JCOPE are available on the LEC website. In 2016, the Legislative Ethics Commission referred all parties who wished to file a complaint to JCOPE.

Disposition and Notice of Civil Assessment

JCOPE 13-168: IN THE MATTER OF FORMER ASSEMBLYMEMBER
DENNIS GABRYSZAK

The Legislative Ethics Commission received Substantial Basis Investigation Report (SBIR) 13-168 from the Joint Commission on Public Ethics (JCOPE) pursuant to Executive Law §94(14-a) on November 16, 2015.

Pursuant to Legislative Law §80(10), the LEC concurred with JCOPE's conclusions of law that former Assemblymember Dennis Gabryszak violated Public Officers Law §§74(3)(d),(f), and (h) through knowing and intentional conduct. The Commission directed that Mr. Gabryszak be assessed a total civil penalty in the amount of one hundred thousand dollars (\$100,000): seventy thousand dollars (\$70,000.00), for violations of Public Officers Law §74(3)(d) by his course of conduct involving seven female staff members; a maximum ten thousand dollar (\$10,000.00) civil penalty for the violation of Public Officers Law §74(3)(d) by his misappropriation of State resources for campaign purposes; and twenty thousand dollars (\$20,000.00) for "the benefit received" as a result of his misappropriation of State resources for campaign purposes, pursuant to Public Officers Law §74(4).

The Commission issued a Disposition and Notice of Civil Assessment on February 12, 2016.

<https://legethics.ny.gov/sites/default/files/documents/files/Gabryszak%20disposition%20final.pdf>

Training

Pursuant to Section 94 of the Executive Law, legislators and staff who earn over the filing rate (set pursuant to Public Officers Law Section 73-a as SG-24 set forth

in Civil Service Law §131(1)(a)) or are designated as policy makers are required to complete an initial two-hour comprehensive ethics training course with subsequent ninety minute training programs at least once every three years. Although the legislature has conducted various training programs in the past, formal training programs have been implemented with the assistance of the Legislative Ethics Commission pursuant to the statute. Legislators and all legislative employees, including those that are not policy makers, complete training at least every two years pursuant to legislative policy.

All legislators have completed a comprehensive ethics training course and more than ninety percent of all legislative employees have completed ethics training. In addition, all newly elected legislators who began their service on January 1, 2017 have received either ethics orientation or comprehensive ethics training pursuant to statutory requirements. LEC staff provided twenty-four training sessions in conjunction with the legislature in 2016.

The LEC has also developed and implemented the online ethics orientation course, which all new employees are required to complete within three months of being hired. Approximately 320 new employees completed online orientation training in 2016.